

## AMENDMENT AND RESPONSE UNDER 37 CFR § 1.116

Serial Number: 08/902,133

Filing Date: July 29, 1997

Title: DYNAMIC ELECTRICALLY ALTERABLE PROGRAMMABLE READ ONLY MEMORY DEVICE

Page 18

Dkt: 303,356US1

**REMARKS**

In response to the final Office Action dated 20 September 2000, the applicant respectfully requests reconsideration of the above-identified application in view of the following remarks.

Claims 2-6, 8-10, 12-15, 18-20, 28, 29, and 32, 34-37 and 39-78 are pending in the application. Claims 45-48, 53, 54, 59, 60, 67-70, and 73-76 are allowed. Claims 1-6, 8-16, 19, 20, 28, 29, 32-37, 43, 49, 51, 55, 57, 61, 63, 65, 71, and 72 have been rejected. Claims 7, 18, 38-42, 44, 50, 52, 56, 58, 62, 64, 66, and 78 have been objected to. Claims 1, 7, 11, 16, 33, and 38 have been canceled. Claims 2, 6, 8, 12, 18, 19, 28, 29, 32, 34, 36, 37, 39, 41-44, 47-70, and 76-78 have been amended. No new matter has been added.

*Allowable Subject Matter*

The Examiner indicated that the subject matter recited in claims 7, 18, 38-42, 44, 50, 52, 56, 58, 62, 64, 66, and 78 was allowable. Claims 45-48, 53, 54, 59, 60, 67-70 and 73-76 were allowed.

*Rejection of Claims under §102*

Claims 2-6, 8, 9 and 29 were rejected under 35 U.S.C. § 102(b) in view of Sakata et al. (Electronics Letters, Vol. 30, No. 9, pp.688-689, Sakata). The applicant respectfully traverses.

Claim 29 has been amended to include subject matter that the Examiner indicated was allowable, the subject matter being recited on page 5 of the final Office Action. Claims 2-6, 8, and 9 are dependent on claim 29, and recite further limitations with respect to claim 29. In view of the amendment to claim 29, and the limitations in the claims, the applicant respectfully submits that claims 2-6, 8, 9, and 29 are not anticipated by Sakata, and that claims 2-6, 8, 9, and 29 are in condition for allowance.

*Rejection of Claims under §103*

Claims 10-16, 20, 28, 32-37, 43, 49, 51, 55, 57, 61, 63, 65, 71, 72 and 77 were rejected under 35 USC § 103(a) as being unpatentable over Sakata in view of Sugita (JP Application No. 08-255878). The applicant respectfully traverses.

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Page 19  
Dkt: 303.356US1

Claims 28, 32, 43, 49, 51, 55, 57, 61, 63, 65, and 77 have been amended to include subject matter that the Examiner indicated was allowable, the subject matter being recited on page 5 of the final Office Action. The remaining claims are dependent on one of the claims listed above. In view of the amendments to the claims, and the limitations in the claims, the applicant respectfully submits that claims 10-16, 20, 28, 32-37, 43, 49, 51, 55, 57, 61, 63, 65, 71, and 77 are not disclosed or suggested by the combination of Sakata and Sugita, and that claims 10-16, 20, 28, 32-37, 43, 49, 51, 55, 57, 61, 63, 65, 71, and 77 are in condition for allowance.

Claim 72 is a means-plus-function claim under 35 U.S.C. § 112, paragraph 6. The PTO has promulgated "Supplemental Examination Guidelines for Determining the Applicability of 35 U.S.C. 112, paragraph 6" at 65 FR 38510. The Guidelines require the Examiner to make a prima facie case of equivalence under paragraph 6. However, the Examiner has not presented an explanation or a rationale as to why the disclosure in the combination of Sakata and Sugita is equivalent to the corresponding elements disclosed in the specification as is required by the Guidelines.

The applicant respectfully submits that the combination of Sakata and Sugita does not disclose or suggest an equivalent to the corresponding elements disclosed in the specification under 35 U.S.C. 112, paragraph 6, and therefore claim 72 is in condition for allowance.

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Page 20

Dkt: 303.356US1

CONCLUSION

The applicant respectfully submits that all of the pending claims are in condition for allowance and such action is earnestly solicited. The Examiner is invited to telephone the below-signed attorney at 612-373-6973 to discuss any questions which may remain with respect to the present application. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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I hereby certify that this paper is being transmitted by facsimile to the U.S. Patent and Trademark Office on the date shown below.



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